IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITIOIN **NO. 4239 OF 2004**.

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders

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Mr. M.P. Jadhav for the petitioner

Mr. Vijay Mane for respondent

CORAM : ANOOP V. MOHTA, J.

DATE : 14.11.2005

. Heard. By the present writ petition, the chamber summons, whereby the amendment to the suit was rejected is under challenge. Admittedly, at the stage of judgment, after the trial is over and the evidence was led by the parties such chamber summons was taken out. As pointed out by the learned Counsel appearing for the respondent, rightly so, that there is no

justification given on the record to file such chamber summons at this late stage. The parties have the knowledge about the proceeding, as well as, the material, as sought to be placed on the record. The learned Judge, after considering the rival contentions, has also taken note of the fact that by this amendment the plaintiff wants to bring the issue within the ambit of limitation, which was barred of on the date when the amendment was sought.

2. The Supreme Court in (Jai Jai Ram Manohar Lal V. National Building Material Supply) (AIR 1969 SC. 1267) has considered the case of order 6 rule 17 and 153 and order 30, rule 1 of C.P.C. for the amendment of the plaint, in refering to the Court’s discretion. The trial Court has considered this judgment while rejecting the chamber summons. This is not the case of rejection of the amendment application on technical

ground. The facet which cannot be overlooked in such situation, is due diligence and bonafide of the parties to file such amendment application. I am also of the view that there is no case made out to interfere with the findings and reasoning given by the learned Court while rejecting the application. The writ petition is accordingly dismissed.

(ANOOP V.MOHTA,J.]